K. Ireland. Commons, Hon. C.

MINUTES of EVIDENCE

TAKEN BEFORE THE

SELECT COMMITTEE

ON THE

BALTINGLASS ELECTION.

A

BRITISH MUSEUM

THE

CASE

OF THE

Borough of Baltinglass,

IN THE

COUNTY of WICKLOW.

THE Committee was choſen on Monday the 10th of November, 1783, and conſiſted of the following gentlemen:

Dudley Huſſey, Eſquire, Chairman.
Sir John Parnell, Baronet.
Stephen Moore, Eſquire.
William Richardſon, of Armagh, Eſquire.
Honourable William Moore.
Sir Hugh Hill, Baronet.
John Latouche, Eſquire.
James Alexander, Eſquire.
Daniel Toler, Eſquire.
John Richardſon, Eſquire.

John Monck Maſon, Eſquire.
Owen Wynne, Eſquire.
John Doyle, Eſquire.
Thomas James Forteſcue, Eſquire.
Thomas Pigott, Eſquire.

Petitioners—The honourable Benjamin O'Neil Stratford, and James Somerville, Eſquires.

Sitting Members—The honourable John Stratford, and Warden Flood, Eſquires.

Counſel for the Petitioners—Mr. Caldbeck, Doctor Duigenan, Mr. Boyd, and Mr. Ayres.

Counſel for the ſitting Members—Mr. Ball and Mr. Smith.

Reſolved, "That no more than one counſel of a ſide ſhall examine or croſs-examine the ſame witneſs."

Reſolved, "That the parties ſhall be at liberty to go into objections generally, provided they have given notice, purſuant to the order of the houſe, that no objections may appear to have been made below at the time of the election."

The petition of the honourable Benjamin O'Neil Stratford being read; alſo the petition of James Somerville, Eſq;

Caſe of the Petitioners.

The Borough of Baltinglaſs was incorporated by Charles the Second, and the perſon to be returned a member of parliament muſt be a burgeſs; for the charter expreſsly ſays, that they may chooſe two diſcreet burgeſſes out of the freemen and inhabitants of the ſaid town or borough to every parliament; and Mr. Flood, the ſitting member, it was admitted, was not a burgeſs at the election. Several burgeſſes had voted who had been improperly admitted, and ſome ſuffered to vote who had been disfranchiſed. That undue influence had been exerciſed by Lord Aldborough, who claimed the patronage of the borough; and that a ſum of money had been paid to Lord Aldborough to procure that influence, and that by thoſe corrupt means the ſitting members were returned.

Mr. Somerville's counſel, who ſtood on different grounds, contended that the deputy ſovereign had admitted ſeveral perſons to vote who were not qualified. Benjamin O'Neil Stratford, no burgeſs; Morley Saunders, no burgeſs; John Stratford Saunders, a minor; and he inſiſted as againſt John and Benjamin O'Neil Stratford he had a right to Mr. Gerard's vote. By the charter no officer or burgeſs was to be elected but from among the inhabitants; and that John and Paul Stratford had been removed and disfranchiſed upon the oath of Benjamin O'Neil Stratford, and another burgeſs, for having lacerated

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the corporation book, and that Samuel King and James Shiel were elected in their room, but had been elected improperly.

Mr. Robert Warren was produced.

The paper in his hand was all in his handwriting, ſave a part written by Maſon Gerard—and was the poll book taken at the election for the borough of Baltinglaſs—He was employed by Maſon Gerard to take the poll, and not by Lord Aldborough—He believed Lord Aldborough was ſovereign and Mr. Gerard his deputy. The witneſs went to Baltinglaſs by the direction of Lord Aldborough. The other paper in his hand was a deputation from Lord Aldborough—it was ſigned by Lord Aldborough, at Mr. Flood's in Dublin, and no burgeſs or freeman of Baltinglaſs was preſent but the witneſs, who was not ſworn in at that time. The following perſons were objected to at the poll, on account of the uſurpation—General Walſh, Thomas Reeves, Robert Power, Ralph Walſh, William King, and Edward Weſtby.

He was croſs-examined.

The deputation was confirmed by an act of the corporation of the 9th of Auguſt. Mr. Flood was at Lord Aldborough's the morning of the election—The witneſs went in one of Lord Aldborough's carriages with Mr. Gerard and Mr. Wingfield—Mr. Power was then in the committee room—He imagined Mr. Gerard was apprehenſive

prehenſive of a riot, and Mr. Gerard had ſaid to the witneſs, that he thought it better to return Mr. John Stratford with Mr. Flood, as he, Mr. John Stratford, was likely to ſucceed for the county. The election for Baltinglaſs was held in the houſe of one Rowan, an Innholder—There are the walls of a Tholſel in the town—Mr. Gerard was dead.

Here objections were taken by the petitioner Somerville to general Walſh for not being a legal burgeſs, and the corporation act of the twenty-ſixth of June, one thouſand ſeven hundred and fifty-eight read, electing John Stratford a burgeſs; and that of the firſt of July, one thouſand ſeven hundred and ſixty-five, when he was elected ſovereign, and that on the thirtieth of September when he was ſworn in; alſo that of the firſt of July, one thouſand ſeven hundred and ſeventy-ſix, when he was elected ſovereign, and that of the thirtieth of September when ſworn in; and that of the the thirtieth of June, one thouſand ſeven hundred and ſeventy-ſeven, when the honourable Paul Stratford was elected Sovereign, and Higginbotham was ſworn a burgeſs; and that alſo of the ſixth of October, one thouſand ſeven hundred and ſeventy-ſeven, when the honourable John and Paul Stratford were diſfranchiſed. Theſe ſeveral acts were admitted, the books being proved to belong to the corporation.

Edward

Edward Stanley was produced to anſwer this Objection.

After the judgment of diſfranchiſement of the Mr. Stratfords, Lord Aldborough had eighteen iſſues tried at Wicklow—whether John and Paul were burgeſſes of Baltinglaſs or not, and verdicts were found againſt Lord Aldborough.

The corporation act of the ſixth of October, one Thouſand ſeven Hundred and Seventy-ſeven, was then read, ſwearing in Paul, as was that of the ſeventh, when Higginbotham was elected ſovereign; and that of the eighth, when Higginbotham was ſworn in. On the thirteenth of November, General Walſh was elected a freeman; and on the eighteenth he was ſworn in.—On the firſt of July, one Thouſand ſeven Hundred and eighty-two, General Walſh was elected a burgeſs and ſworn in.

The Room was cleared and the committee came to the following Reſolution:

Reſolved, "That this committee is of opinion, that perſons are eligible to the office of burgeſs of the borough and town of Baltinglaſs, although they ſhould not be free commoners or inhabitants of ſaid borough or town, or the liberties thereof, at the time of their election."

Robert

Robert Freke proved the atteſted Copy of the Judgement of Ouſtre againſt Higginbotham, as of Eaſter Term, one Thouſand ſeven Hundred and Seventy-nine.

The corporation act of the twenty-ninth of June, one thouſand ſeven hundred and ſeventy-eight was then read, by which Benjamin O'Neil Stratford was elected ſovereign—fifth of October ſworn in.

The committee came to the following reſolution

Reſolved, "That John Higginbotham was, from the ſeventh day of October, one thouſand ſeven hundred and ſeventy-ſeven, to the fifth day of October, one thouſand ſeven hundred and ſeventy-eight, an uſurper."

Thomas Allen produced for the ſitting Member.

He was town clerk of Baltinglaſs, and proved the corporation acts of the ſixteenth of June one thouſand ſeven hundred and ſeventy-eight—ſeventeenth of June one thouſand ſeven hundred and ſeventy-nine—fourth of October one thouſand ſeven hundred and ſeventy-nine—twenty-ſixth of June one thouſand ſeven hundred and eighty—ſecond of October one thouſand ſeven hundred and eighty.

He was Croſs-examined.

The paper dated the ſixteenth of October one thouſand ſeven hundred and ſeventy-eight, was drawn up in his preſence—it was done in the aſſembly-room—He knew no Tholſel in Baltinglaſs—There is a place which ſome call the Market-houſe—ſome the Tholſel—Counſellor Sheil reſigned his office the day that paper was dated—the paper was not ſigned by the ſovereign—The witneſs wrote the paper by the direction of the corporation; the corporation books were at that aſſembly—they were taken away by Lord Aldborough's orders—they were taken away by the honourable Benjamin O'Neil Stratford that day, to the beſt of his knowledge. Benjamin O'Neil Stratford was preſent on the ſeventeenth of June one thouſand ſeven hundred and ſeventy-nine, and the reſolutions of that day were read to him, but no charge was exhibited to him, except what appeared on that paper—No notice was given but by poſting one up, and he believed the poſted notice was to remove the ſovereign, and Benjamin O'Neil Stratford was not ſerved—three days notice was given—He did not recollect his ever copying any paper as a corporate act from any paper in Lord Aldborough's handwriting; but if he did, they were approved of by the corporation—The uſual notice was eight days—The witneſs never knew any perſonal notice given to the corporators individually.

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The committee, upon the evidence of the acts of the corporation, and the foregoing parol teſtimony, came to ſeveral reſolutions relative to the burgeſſes who had been diſfranchiſed, and declaring others not elected.

Morley Saunders, Eſq; was produced for the ſitting Member.

He was preſent at an election for burgeſſes of Baltinglaſs the twenty-fifth day of June one thouſand ſeven hundred and eighty-one—there were three or four perſons propoſed as burgeſſes in the room of others—The names of the perſons were wrote down, and the queſtion propoſed on them all at the ſame time, and all were voted for together, and only one queſtion put upon them together—He believed it was mentioned that there were four vacancies, and the whole corporation was unanimous in their election—There was no ſuggeſtion of there being only three vacancies.

He was Croſs-examined.

He believed he came into the aſſembly of the corporation before the three Mr. Stratfords—There was ſome converſation before they come, but he did not recollect it—There was a converſation between them and Lord Aldborough—They retired with Lord Aldborough up ſtairs, and agreed there ſhould be no further diſturbance in the borough—His name was to the act of the twenty-firſt of June one thouſand ſeven hundred

and ſeventy-nine—He knew Thomas Reeves and Annesley Derenzy; they were elected, but he did not know in whoſe room—The gentlemen alledged Mr. Reeves was not duly elected, and Mr. Reeves conſented to being elected again, and was ſo—He did not know whether the corporation had a power to turn out Derenzy; but Lord Aldborough ſaid he would turn him out, and the corporation did ſuppoſe him not a burgeſs, and the act of reſcindment was agreed upon—The witneſs did not recollect any converſation about filling up Hartpole and Higginbotham's vacancies previous to Lord Aldborough and the Mr. Stratfords going up ſtairs—He believed the Mr. Stratfords might have complained of buſineſs being done before they came, but did not recollect Mr. John Stratford and Mr. Paul Stratford doing ſo particularly—He believed it was the election of a ſovereign they complained of—He could not tell whether Mr. Derenzy was in the room when the Mr. Stratfords came in, but he was turned out and complained of being ſo—Part of the agreement between Lord Aldborough and the Mr. Stratfords, was that a number of people who were elected free commoners ſhould be ſtruck out—He could not recollect Robert Power's being propoſed in the room of J. Higginbotham *.

* On this ſubject the following caſes were cited for the petitioner, Digges's caſe 11 Co. The King and Richardſon, 1 Burro. 517. King and Withers from Notes to 2 Burro. 1020; and the King and Corporation of Wells, 4 Burro. 2005—For the ſitting member, Holt's Rep. 170. 4 Mod. 33, 36, S. C.

Thomas

Thomas Allen, Town-Clerk, was again produced.

He was preſent at the meeting of the twenty-fifth of June one thouſand ſeven hundred and eighty-one—Lord Aldborough and ſeveral of the other burgeſſes met firſt, and Lord Aldborough was elected ſovereign before John and Paul Stratford came—Something had been done relative to Reeves before they came—Reeves was elected a burgeſs at the time Lord Aldborough was elected ſovereign—There was other buſineſs done, but not before the Mr. Stratfords came—They were entering Lord Aldborough's election as ſovereign—The Mr. Stratfords were coming in, and Reeves had been elected in the room of the honourable Robert Stratford, as the witneſs believed—There was a murmur between John and Paul Stratford and Mr. Saunders, and they begged Lord Aldborough to alter the buſineſs of the day, and he agreed to it, and they withdrew to another room—when they came down ſtairs, Mr. Thomas Reeves and Mr. Power were made burgeſſes on their return—This was after the Mr. Stratfords came. The honourable Mr. Wingfield and Sir James Stradford Tynte were at the ſame time elected burgeſſes—It was Lord Aldborough propoſed Reeves and Power, and he alſo propoſed the other two—He knew Sir James Stratford Tynte, he could not ſay whether he was preſent or not—Mr. Wingfield was not, as he thought Mr. Wingfield and Sir James Stratford Tynte were nominated after Reeves and Power,

Power, two by two—Robert Power was nominated in the place of John Higginbotham, and Reeves in place of H. N. Stratford—this he was poſitive of—The queſtion was put on them ſeparately—Sir James Stratford Tynte, in the room of Dunckly—He did not recollect in whoſe room Mr. Wingfield was elected—They were nominated two by two, but elected ſeparately—They were mentioned one in the room of ſuch a one, and another in the room of ſuch a one—The election of ſovereign was firſt—He thought Lord Aldborough was elected ſovereign, after he and the Mr. Stratfords returned—Mr. Saunders was preſent at that election, he and the reſt of the gentlemen prevailed on Lord Aldborough.

He was Croſs-examined.

It was the twenty-fifth of June one thouſand ſeven hundred and eighty-one, (Monday) Mr. Stratford told him there was a matter he was to be examined to, but no perſon ſpoke to him about the tranſaction of the day of election ſince he came to Dublin, nor no perſon told him what it was he was to be examined to—He never ſaw what he was to be examined to in writing—Meſſrs. Reeves and Power were the two firſt put up—they were both in the room, the ſecond two were Mr. Wingfield and Sir James Stratford Tynte—He could not recollect whether either of them were there, and could not recollect how many of them ſigned the book—Lord Aldborough and his brothers were the firſt perſons

ſons who propoſed going up ſtairs—they all agreed to it—He could not tell what the buſineſs was they prayed to be altered, whether it was the election of Lord Aldborough as ſovereign, and was at a loſs to recollect whether that was altered, but it was in the ſtamped paper delivered in.—The committee ordered Mr. Reeves to be examined—He remembered the meeting of the twenty-fifth of June one thouſand ſeven hundred and eighty-one, but did not recollect whether John and Paul Stratford were preſent at the beginning of the buſineſs; the witneſs ſigned the book—He could not recollect any prior election of ſovereign to the one he ſigned. There was a reconciliation took place between Lord Aldborough and the Mr. Stratfords, and he thought there was a ſovereign choſen before the Mr. Stratfords came, but he could not be certain—He did not recollect whether he was elected a burgeſs before they came or not, nor whether there was any election but one of burgeſſes—He believed Sir James Stratford Tynte and Mr. Wingfield were there; he could not recollect whether the queſtion was put on the four together; but believed they were put up two and two—He did not recollect in whoſe room they were choſen, nor could he take upon him to ſay, whether they were put up two and two, or the four together—The witneſs himſelf was not put up twice that day—He conceived himſelf a burgeſs before, and would have gone away but Mr. Power deſired him to ſtay. Mr. Higginbotham

tham was the one in whoſe room the witneſs was elected—He ſigned the paper and thought there were four vacancies—He did not recollect any converſation among the burgeſſes, whether there were four or three vacancies—The paper contained the tranſactions of the day truly; and it appeared by the book or paper, that the four were put up together.

The Committee ordered Mr. William King to be examined.

He was in the room when Lord Aldborough and the Mr. Stratfords came down ſtairs—Lord Aldborough had a paper in his hand, which he read—He believed the paper of the twenty-fifth of June, one thouſand ſeven hundred and eighty-one, to be the one, but was not certain whether it was the paper he ſigned—He did not recollect any election of burgeſs or ſovereign—He ſigned the election of four burgeſſes, but did not recollect any particular circumſtances—He did not recollect any vacancies mentioned. When Lord Aldborough brought down the paper, he underſtood all matters had been ſettled between him and his brothers—He believed the election was above ſtairs: Lord Aldborough ſaid ſo, on his coming down, and believed they were all aſked, and gave their conſent to it. He believed the Town Clerk wrote in the room after Lord Aldborough came down. There were names mentioned to be burgeſſes, they were aſked if they conſented to them—they were read to them,

but

but he could not recollect whether they were aſked their approbation ſingly on them or all together—He did not recollect that the names of the perſons whoſe vacancies were to be filled up, were mentioned, and he gave but one aſſent as he believed—He did not recollect that he gave a vote for any one particularly: the other gentlemen of the corporation were in the room at the time—He believed he was a ſecond time elected a free common that day.

Ordered that Anneſley Derenzy be examined.

Derenzy was preſent at the meeting of the twenty-fifth of June one thouſand ſeven hundred and eighty-one—he was preſent at a diſfranchiſement of himſelf, it was after John and Paul Stratford came—There was an election of burgeſſes—He knew of no election of burgeſſes before the Mr. Stratfords came. Lord Aldborough the Mr. Stratfords, and Mr. Saunders, retired up ſtairs, when they came down there were ſeveral burgeſſes in the room; Lord Aldborough had a paper in his hand, and they ſeemed well ſatisfied. Lord Aldborough ſaid he had agreed with his brothers, and read the paper which was the act of reſcindment—When the paper was read, the witneſs thought himſelf ill treated, and told them a future day would recall that reſcindment: The paper was given by Lord Aldborough to the Town Clerk to be tranſcribed—There were four

burgeſſes propoſed by Lord Aldborough, but the witneſs thought that they were either propoſed two and two or all together. Lord Aldborough went over to Mr. Reeves and Mr. Power; he told Mr. Reeves he was to be ſworn over again, and to Mr. Power, that he had propoſed him a burgeſs. It was addreſſed to Mr. Power and the burgeſſes together, "Mr. Reeves, and Mr. Power, I propoſe you burgeſſes." Mr. Reeves refuſed to be ſworn over again at firſt, but afterwards he conſented. Immediately after, Sir James Stratford Tynte and Mr. Wingfield were propoſed by Lord Aldborough. There were no minutes taken by the clerk, between the propoſal of Mr. Reeves and Mr. Power, and the propoſal of Sir James Stratford Tynte and Mr. Wingfield—He did not recollect, whether Sir James Stratford Tynte and Mr. Wingfield were preſent—One of them was put up in room of the witneſs—He did not recollect in whoſe place Mr. Reeves and Mr. Power were propoſed—He conceived there were vacancies to be filled up that day—one was in the room of Mr. Higginbotham, and he imagined there was a vacancy by the death of captain Robert Stratford, and thought there was a vacancy in the room of Robert Hartpole—He ſaw no paper ſigned, and could give no teſtimony of any election—He was certain that every burgeſs preſent gave their conſent to the election of the four burgeſſes but himſelf.

himſelf. The general rule in the corporation was, for Lord Aldborough to propoſe a burgeſs, and a diviſion ſometimes took place; they always conſidered the majority to be the election or the rejection, and that was always done immediately after the propoſal—He conceived Mr. Reeves and Mr. Power were propoſed at the ſame time; and he was very certain, if they had not met the approbation of the burgeſſes, there would have been a rejection immediately.—— There was time enough for an objection before the other two were put in nomination, but the intermediate time was ſpent in getting Mr. Reeves to conſent to be ſworn again. There was a general conſent given to the four as faſt as they were put up—There was no queſtion put on them ſeparately, as had formerly been done. The witneſs did not conſider the election complete; though where there is no diſapprobation he conſidered the election as approved of —He conſidered them as elected as faſt as they went on in their nomination. Lord Aldborough did not aſk the approbation of the members upon any one of them, but took a tacit approbation— Every one preſent expreſſed their approbation at what was done, and ſeemed well pleaſed--He conſidered himſelf a burgeſs in the room of Thomas Dunckly. Lord Aldborough put no queſtion on any or either of the gentlemen propoſed. The cuſtom was to divide, or a proteſt

was entered. No queſtion was put, only telling the members of their nomination, and they were rather propoſed two and two; but he looked upon them all elected together, as no queſtion was put between them—He could not take upon him to ſay, that Mr. Reeves and Mr. Power were elected prior to Sir James Stratford Tynte, or Mr. Wingfield; and he conſidered them all illegal; he did not think one of them legal. Lord Aldborough ſaid he propoſed either Sir James Stratford Tynte, or Mr. Wingfield in the witneſs's room. The paper Lord Aldborough brought down was read, but no queſtion was aſked by him but every one ſeemed pleaſed with it.

George King was produced for the Petitioner.

He recollected being preſent the twenty-fifth of June one thouſand ſeven hundred and eighty-one—He ſaw Lord Aldborough, John, Benjamin and Paul Stratford, and Mr. Saunders—He recollected Lord Aldborough came with a written paper in his hand—Nearly the words of the paper which Lord Aldborough read, were thoſe produced to him in the corporation book, to the beſt of his recollection. Lord Aldborough aſked the aſſent of the burgeſſes and free commons to the paper he read—Lord Aldborough propoſed a number of names—he thought the four before mentioned—He thought Lord Aldborough

borough aſked the burgeſſes whether the reſolutions were agreeable to them—He did not hear Lord Aldborough aſk the queſtion on them ſeparately. As ſoon as Lord Aldborough aſked the queſtion on the paper he retired, and Mr. Derenzy followed ſhortly. It was the uſual manner for Lord Aldborough to bring a paper for the approbation of the burgeſſes.

The room was then cleared, and the committee came to the following reſolutions,

Reſolved, "That Mr. Robert Power, was duly elected a burgeſs of the corporation of Baltinglaſs, on the twenty-fifth day of June, one thouſand ſeven hundred and eighty-one."

Reſolved, "That the Honourable Benjamin O'Neil Stratford, was a ſovereign de facto, of the corporation of Baltinglaſs, on the fifth day of October, one thouſand ſeven hundred and ſeventy-eight."

The committee made the following point for the lawyers to ſpeak to, "Whether the election of a burgeſs, held under a ſovereign de facto, not afterwards proſecuted, and againſt whom no judgment of ouſter has been given, be a valid election, ſuch election of burgeſs having been had three years before his right being called in queſtion."

And

And it was argued on both ſides, and the authorities in the margin were cited in ſupport of the different opinions of counſel*.

The room was then cleared, and the committee reſolved,

"That General Hunt Walſh, was duly elected a burgeſs of the corporation of Baltinglaſs, on the firſt day of July, one thouſand ſeven hundred and eighty-two"—And ſimilar reſolutions were entered into as to the following voters: Mr. Edward Weſtby, Mr. William King, and the Rev. Dean Walſh.

Mr. George King was produced to prove undue Influence by Lord Aldborough.

He knew William King, and had ſome converſation with him, yeſterday or the day before, relative to the late election for Baltinglaſs—He is his couſin german.

* 4 Burrow. 2135. The King and Malden.
2 Lev. 242. Dunning v. Norris.
2 Lev. 184. Hippſley v. Tuck.
} That an election before a Sovereign de facto, is good.

On the other Side.

Lord Hard. Ca. 141. King v. Harding, there cited.
4 Burrow. 2241. The King v. Smart:
Andrews 163. 2 Barnardiſt. K. B. 193.
2 Str. 1090. King. v. Liſle. See 2 Barnardiſt. 264.

He

He was objected to by counſel, as offering only hearſay evidence—He knows nothing of his own knowledge, relative to any bribery on the late election for Baltinglaſs.

Mr. Robert Power was produced to prove undue Influence.

The witneſs voted at the laſt election for Baltinglaſs—He was acquainted with Lord Aldborough—He had no converſation with his lordſhip, as to who were proper perſons to be candidates for the laſt election—When he came on the morning of the election, he ſaw ſeveral gentlemen at the tholſel—The witneſs was very well acquainted with Mr. Flood—He voted at the laſt election for him and Mr. Somerville—The witneſs ſlept to the beſt of his recollection the night before the election at his own houſe, and breakfaſted at home on the next morning. He did not recollect any body recommending Mr. Somerville to him on that day.—Lord Aldborough wrote to him before the election, hoping he would give his vote to Mr. Flood and Mr. Somerville—The witneſs knew the Honourable Benjamin O'Neil Stratford, and told him that he would not vote for him—The witneſs looked on himſelf as having ſome truſt in the borough, and thought himſelf bound to vote for Lord Aldborough—He did not think he would have voted for

for Mr. Somerville, if he had not been recommended by Lord Aldborough—He thought Lord Alborough would have a right to publiſh his (the witneſs's) conduct, if he had not voted as Lord Aldborough pleaſed.—The witneſs never heard that Lord Aldborough had threatened to publiſh a letter of his, and would have voted for Mr. Flood whether Lord Aldborough recommended him or not, becauſe he promiſed him—The witneſs was below ſtairs when he was elected a burgeſs, and was elected twice that day—He did not recollect any converſation with Mr. Flood, Mr. Somerville, or Lord Aldborough, after the election.

He was Croſs-examined.

Some queſtions being put to witneſs, which from motives of delicacy he begged the committee would waive. Agreed to.

John Stratford Saunders, Eſq; was produced to prove Bribery.

He was at the laſt election for Baltinglaſs, and ſaw Mr. Flood there.—He recollected on the morning of the election, Mr. Flood told Mr. Benjamin O'Neil Stratford, he wiſhed to have come in with the general conſent of the family; and heard Mr. Flood ſay to Mr. Benjamin O'Neil Stratford, "Do you think, I would come into "this borough, if I thought there was to be any "diſpute,

"diſpute, when I could get into another on "the ſame terms"—which the witneſs underſtood was for a ſum of money.

Mr. William King was produced to prove undue Influence.

His acquaintance with Mr Flood and Mr. Somerville, was very ſhort; he never ſaw Mr. Somerville until he ſaw him in the committee room. —Mr. Warren the agent, requeſted of him to vote for Mr. Flood.—The witneſs conſidered Warren as an agent for Lord Aldborough—If Mr. Warren had not aſked the witneſs, he would have voted for Mr. Flood—He was not certain who made him a free common—Mr. Stratford, Mr. Benjamin O'Neil Stratford, and Lord Aldborough, ſaid each ſingly, they were the perſons who made him; but as he was not certain, he conſidered himſelf as free to vote as he pleaſed—Mr. Wingfield and Mr. Warren aſked him to vote, and he refuſed them, and ſaid he would not vote at all—Captain Saunders and Mr. Stratford came to the witneſs's houſe, and after ſome converſation, they uſed words that he looked upon as threats, which determined him immediately to vote for Mr. Flood and Mr. Somerville.

Lady Hannah Saunders produced.

Said Lord Aldborough owed her money ſome time ago, which had been paid her about a year

ago—She had no converſation with him about when or where he got the money—She told no perſon that Lord Aldborough paid her out of the money he received for the borough.—And Mr. Benjamin O'Neil Stratford had told Lord Aldborough that he would not petition if he would give him a certain ſum of money.

Mr. Thomas Reeves was produced to prove undue Influence.

He was a burgeſs of Baltinglaſs, and voted at the laſt election for Meſſrs. Flood and Somerville—There were more candidates, the two Mr. Stratfords—The witneſs was intimate with them—He had a diſpute with Mr. Stratford ſome years ago—He received a letter from Lord Aldborough, requeſting him to vote, to which he ſent no anſwer—Though the borough belonged to Lord Aldborough, he would not have known who to have voted for, if he had not received the letter from Lord Aldborough—He would not have voted for the Mr. Stratfords, if Lord Aldborough had applied to him for them—But ſuppoſed that he would not have voted for Mr. Somerville and Mr. Flood, if they had not been recommended by Lord Aldborough—He voted for the two gentlemen, with whom he was not acquainted—they were recommended by Lord Aldborough, and he voted in conſequence of that recommendation—He conſidered himſelf as a truſ-

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tee of the borough, and put in by Lord Aldborough, and therefore was obliged to pay obedience to the requeſt of Lord Aldborough.

The Rev. Dean Walſh was produced to the ſame Point.

He was at the laſt election for Baltinglaſs, and voted for Meſſrs. Flood and Somerville—He lay at Belan the night before the election—He went from Ballykilcavan to Belan, and next morning to the election—He went to the election in Lord Aldborough's carriage.—He could not ſay any perſon ſolicited him for his vote—He heard at Belan, that Mr. Flood and Mr. Somerville were to be candidates—He knew the other candidates very well, and underſtood that Lord Aldborough meant to ſupport theſe gentlemen, and in conſequence voted for them—He conſidered himſelf a truſtee of the borough for Lord Aldborough.—He might have voted for the other gentlemen if he had not been applied to by Lord Aldborough—The witneſs would have voted for any perſon Lord Aldborough ſupported—If Lord Aldborough had not ſupported Meſſrs. Flood and Somerville, he would have voted for the gentlemen he was acquainted with.

The petitioner cloſed his evidence with reſpect to undue influence.

It was contended, that the returning officer, when a freeholder of a county, or burgeſs of a borough, has a right to vote in conſequence of ſuch franchiſes, at any election where he preſides as ſuch returning officer.

Sec. 15. And for that purpoſe cited a clauſe of the 15th and 16th Geo. 3. whereby it is enacted, "that in caſe of an equality of voices, for any two or more candidates upon the cloſe of the poll, he ſhall be at liberty to give his caſting voice, whether otherwiſe legally qualified to vote or not at ſuch election."

It was alſo objected, that notice had not been given to the returning officer, fourteen days before the trial of the petition, of a charge to be made of miſconduct in him, as was required by the ſtatute,

21ſt. and 22d. Geo. 3. ſect. 7.

Mr. Robert Warren was called for, and examined by the Committee.

He took the poll under Mr. Gerard—He wrote the whole of the poll book, except the totts.—Mr. Maſon Gerard deſired him to take his vote for Mr. Flood and Mr. Somerville; this was before Mr. Derenzy came in—Mr. Derenzy inſiſted on his franchiſe, and was admitted. About an hour after, Mr. Gerard ſaid he did not intend that Mr. Derenzy's vote ſhould have been taken.

There

There were ſeven votes for Mr. Flood, and ſix for Mr. Somerville—The witneſs apprehended Mr. Maſon Gerard voted as a burgeſs.

Edward Weſtby, Eſq; was in like Manner examined by the Committee.

He could not be certain whether Mr. Maſon Gerard polled before or after Derenzy; but every perſon in the room polled before Maſon Gerard.—The witneſs did not recollect any objections to Mr. Maſon Gerard. He told the returning officer he did not think Derenzy had a right to vote there—and recollected Gerard deſiring Mr. Warren to ſtrike out Derenzy's name after it was entered—The witneſs gave Mr. Gerard his opinion, that he could not vote as a burgeſs. Mr. Gerard ſaid, he as returning officer had a right to vote twice—He (Gerard) did not vote as a returning officer. He gave a copy of the poll book to Mr. Stratford.

Morley Saunders, Eſq; was produced to prove that Maſon Gerard voted as Returning Officer.

Mr. Saunders conſidered himſelf as intereſted if there ſhould be a new election, for he was told that ſome perſons intended to ſet him up for the borough; though Lord Aldborough had a majority of the borough. The witneſs was preſent at the election of Baltinglaſs; Mr. Maſon Gerard preſided as returning officer. He recollected

lected Mr. Gerard's tendering his vote; it was after Mr. Derenzy had voted. Mr. Gerard had not polled before Derenzy came in. The witneſs's brother gave his vote after Mr. Derenzy came in, and was ſure Mr. Gerard had not polled before that time. He conſidered Mr. Gerard to have but one vote, and Mr. Flood and Mr. Weſtby gave the ſame opinion. Looked upon Mr. Gerard's vote to be given as returning officer. Mr. Derenzy's name was entered by the clerk, while the diſpute was pending, and it was afterwards ſcratched out. Mr. Gerard then aſked Mr. Derenzy who he polled for; he anſwered, for the two Mr. Stratfords. Mr. Gerard objected to him, as not being a burgeſs.—Mr. Derenzy then took up a book, and ſwore he thought he had a right to vote; upon which his vote was admitted.—The totts were made up after Mr. Derenzy had polled—Mr. Gerard did not mention any particular perſon; gave it as a caſting voice—Mr. Gerard did not vote at all.

The evidence here was cloſed on both ſides, and the room cleared.

The committee then determined,

"*That Warden Flood, Eſq; is duly elected a burgeſs, to ſerve in this preſent parliament, for the ſaid borough of Baltinglaſs.*"

And,

And, "*That the ſaid Warden Flood, Eſq; is duly returned a burgeſs, to ſerve in this preſent parliament, for the ſaid borough of Baltinglaſs.*"

And, "*That the Honourable John Stratford, is duly elected a burgeſs, to ſerve in this preſent parliament, for the ſaid borough of Baltinglaſs.*"

And alſo, "*That the ſaid Honourable John Stratford, is duly returned a burgeſs, to ſerve in this preſent parliament, for the ſaid borough of Baltinglaſs.*"

And the chairman was ordered to report it to the houſe, and did report accordingly.

And the ſaid determinations were ordered to be entered on the journals of the houſe.

Ir. Commons Journals, vol. 21. pa. 356.

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